

MAHONY CORPORATION

106 WEST MAIN, SUITE 406
EL DORADO, ARKANSAS 71730-5683
TELEPHONE 870 / 862-6464

September 10, 2019

FILED
US DISTRICT COURT
WESTERN DISTRICT
OF ARKANSAS

Sep 16, 2019

OFFICE OF THE CLERK

Ms. Carol Nesbit
Clerk (Deputy in Charge)
United States District Court
Western Division of Arkansas
101 S. Jackson Ave., Suite 205
El Dorado, AR 71730

RE: Case 1:18-cv-01040

Dear Ms. Nesbit:

This letter is written in response to paragraph 78 of the Consent Decree filed in this case on September 3, 2019. Therein it is stated: "This Consent Decree shall be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7."

On or about March 9, 2013 an oil spill occurred which is the subject of this Consent Decree. Shortly after the spill Lion Oil and various state and federal officials dispatched hundreds of men to clean up the spill and observe on our property and other property. I was not made aware of the spill until I received a call from Lion Oil on June 24, 2013. This is the first knowledge I had that the spill was on our property. My investigation of the matter revealed that the only reason I received a call from Lion Oil was that their insurance company refused to pay a claim until they contacted me to get a release (which I refused to give). Thereafter I investigated the matter including FOI's to various officials. I never received any notification of the event from any federal or state official involved. Nor did I receive a request to enter our property.

I have attached some items which illustrate the efforts I made to investigate the spill and to receive notice of future spills on our lands. Pursuant thereto I contacted numerous state legislators, Lion Oil, and state and federal regulators. I sought state legislation requiring notice be given to affected land owners who were impacted by spills. This effort was unsuccessful. I think the documents will reveal that I was reasonable in my efforts to seek future notice. I was unhappy with my lack of success but did not press the matter.

There the matter lay until I received a notice from the EPA Region 6 of this Consent Decree. I received the notice because I had signed up on a mailing list to receive information from EPA Region 6 for many reasons. As an aside, I would mention that the Arkansas Game and Fish Commission was never given

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notice of this spill by anyone other than me. I was a member of that Commission at the time of the spill and I am confident that they did not receive notice.

As you can well imagine I became seriously irritated once again as I read the order and discovered a whole host of state and federal agencies and Delek agreed under paragraph V, number 15 ".....Defendants shall conduct confirmatory sampling on the unnamed creek (our property) and Little Cornie Bayou, from the point of discharge to the location of the third (further downstream) weir installed during the response activities, according to the requirements below. a. Defendants shall collect one sample each of the surface water (if water is present in the creek), soil, and sediment at quarter mile intervals. b. The soil samples shall be collected along the creek bank and the sediment samples shall be collected along the creek bed, at depths up to 48 inches using a hand auger...." The reason for my irritation is, of course, that once again the land owner, Mahony Corporation, who is one of the parties directly adversely affected by the spill did not receive notice of the settlement and indeed no one involved in the investigation appeared to know that there was a landowner adversely affected by the spill and the clean-up which was performed while trespassing. This was further compounded by the proposed order requiring trespass on our lands to obtain soil and water samples, with no notice to us.

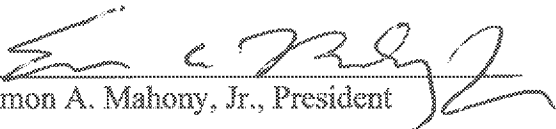
The purpose of this letter is to request the court to require notice to be given and permission to be sought in order to avoid trespass on our lands. Reasonable compensation for use of our land would be requested. Please add Mahony Corporation to section XIII. Notices.

I also request that Delek be required in the future to give us and other landowners notice of any spills affecting our property in Arkansas. The callous disregard of property rights in this instance which is all too frequently indulged by state and federal authorities as well as large multinational corporations gives rise to discontent with the political and legal system of our state and country.

Thank you for the opportunity to share this information.

Sincerely,

MAHONY CORPORATION

By 
Emon A. Mahony, Jr., President

Enclosures
EAMJR/ss

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cc: w/ enclosures

Rep Matthew Shepherd
200 N. Jefferson, Suite 600
El Dorado, AR 71730

Rep Sonia Eubanks Barker
207 West 15th Street
Smackover, AR 71762-2204

Sen Bruce Maloch
650 Columbia Road 258
Magnolia, AR 71753

Sen Trent Garner
P. O. Box 10487
El Dorado, AR 71730

Sen John Boozman
1401 W. Capitol Ave., Suite 155
Little Rock, AR 72201

Rep Bruce Westerman
209 Cannon House Office Building
Washington, D.C. 20515

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Environment and Natural Resources
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U.S. Department of Justice
P. O. Box 7611
Washington, D.C. 20044-7611

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Oil Spill & Response Team Leader
US EPA Region 6
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State of Arkansas Attorney General
Assistant Attorney General
Dara Hall
Environmental Division
323 Center Street, Suite 500
Little Rock, AR 72201

Jarrold Zweifel, Associate Director
Office of Land Resources
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North Little Rock, AR 72118

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Mr. Duane (Dak) Kees
United States Attorney
Western District of Arkansas
Judge Isaac C. Parker Federal Building
30 South 6th Street, Room 1038
Fort Smith, AR 72901-2437

Mr. Mark W. Webb
Assistant United States Attorney
Western District of Arkansas
Judge Isaac C. Parker Federal Building
30 South 6th Street, Room 1038
Fort Smith, AR 72901-2437

Mr. Bill Whiting
PotlatchDeltic Corporation
P. O. Box 7200
El Dorado, AR 71731-7200

MAHONY CORPORATION

106 WEST MAIN, SUITE 406
EL DORADO, ARKANSAS 71730-5693
TELEPHONE 870- / 862-8484

June 5, 2014

Rep. Matthew Shepherd, Chairman
Agriculture, Forestry and Economic Development
200 N. Jefferson, Suite 600
El Dorado, AR 71730

Sen. Bruce Maloch, Vice Chairman
Agriculture, Forestry and Economic Development
P. O. Box 250
Magnolia, AR 71754

Gentlemen:

Attached is a report of a 5600 barrel oil spill which occurred on March 9, 2013 near Magnolia.

As a landowner we had no notice of the spill until June 24, 2013. Lion Oil had the resources to put hundreds of men in the field the next day, but none to notify landowners for over three months. My request is simple; enact legislation to require pipelines (oil or brine) to promptly notify affected landowners when they have a spill which requires notification to ADEQ or EPA.

We have no desire to hurt Lion Oil or anyone else. We do desire notification so that we might protect our rights as landowners. In this instance, insofar as we are aware, the clean-up was performed promptly and has been accepted by EPA and ADEQ.

Thank you for consideration of this request.

Sincerely,

Mahony Corporation

A handwritten signature in black ink, appearing to read 'Emon A. Mahony, Jr.', is written over the printed name.

Emon A. Mahony, Jr., President

Enclosure

cc: Sen. Bobby Pierce, 587 Grant 758, Sheridan, AR 72150
Rep. John Baine, P. O. Box 10056, El Dorado, AR 71730
Mr. Max Braswell, Arkansas Forestry Association, 1213 West 4th Street, Little Rock, AR 72201
Mr. Jeff Pitchford, Arkansas Farm Bureau, 1501 N. University, Suite 150, Little Rock, AR 72207
Mr. Ray Dillon, Deltic Timber Corporation, P. O. Box 7200, El Dorado, AR 71730
Mr. Steve Cousins, Lion Oil, 1001 School Street, El Dorado, AR 71730



MEMORANDUM

TO: Enforcement Branch, Water Division
Jason Bolenbaugh, Inspection Branch Manager, Water Division
Kerri McCabe, Inspector Supervisor, Water Division

FROM: Chris Voss, Water Inspector, Inspection Branch

cc: Dean VanDerhoff, Emergency Response Coordinator
Karia Schaeffer, Inspection Branch

DATE: March 28, 2013

RE: Lion Oil Trading & Transportation (LOTT) - Crude Oil - ER#13-0169

On March 25, 2013, I conducted a follow-up of the site of the March 9th pipeline release by LOTT (UPDATE #2). I found the clean-up of the affected area was proceeding well. Over 100 clean-up personnel were onsite. Much of the debris removal and bank washing was done. I met with TAS Operations Manager, Jason Wright, and LOTT Senior Regulatory Specialist, George Garten, to observe some areas which were being considered operationally clean. These areas had very little visible oil and seemed close to the pre-spill conditions. Several areas were nearing clean-up completion with oil leaching from the soil being the major concern.



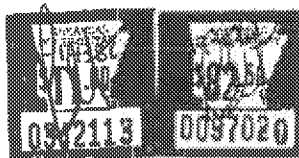
Water Division No Discharge Industrial Photographic Evidence Sheet									
Location:		LOTT Oil Spill # 13-0169 on tributary of Little Cornie Bayou in Columbia Co.							
Photographer:		Chris Voss				Witness:		None	
Photo No.		3	Of	4	Date:		3/25/13	Time: 7:39	
Description:		Same as above							
									
Photographer:		Chris Voss				Witness:		None	
Photo No.		4	Of	4	Date:		3/25/13	Time: 7:40	
Description:		Same as above							
									

Exhibit 1

4th Instrument Prepared By
MAHONY & YOCUM
 ATTORNEYS AT LAW
 200 BRADLEY, ARKANSAS 71601
Arresting
Oldg.

WARRANTY DEED
 CORPORATION



KNOW ALL MEN BY THESE PRESENTS:

BOOK 262 PAGE 129

That MERCHANTS AND PLANTERS BANK, Camden, Arkansas, a corporation organized under and by virtue of the laws of the State of Arkansas, by its President and Secretary, duly authorized by proper resolution of its Board of Directors for the consideration of the sum of TEN DOLLARS (\$10.00) in hand paid by MAHONY CORPORATION, the receipt of which is hereby acknowledged, does grant, bargain, sell, and convey unto the said MAHONY CORPORATION and unto its successors and assigns forever the following described land, situated in the County of Columbia, State of Arkansas, to-wit:

The Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 19, Township 17 South, Range 19 West, less and except the East 15 acres thereof; and the Northeast Quarter (NE $\frac{1}{4}$) of Section 24, Township 17 South, Range 20 West, less and except 7.8 acres described as beginning at the Northwest Corner of the Northwest Quarter of the Northeast Quarter (NW/c NW $\frac{1}{4}$ NE $\frac{1}{4}$), run South 88° 29' East 582.52 feet; thence South 01° 25' West 128.83 feet; thence South 22° 56' West 251.25 feet; thence South 04° 58' West 290.10 feet; thence North 88° 27' West 472.42 feet to the West line of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), thence North 01° 25' East 652.23 feet to the point of beginning, containing in the aggregate 171.92 acres, more or less.

This conveyance is subject to all prior mineral conveyances, reservations and exceptions and to all easements and rights-of-way of record.

TO HAVE AND TO HOLD the same unto the said MAHONY CORPORATION and unto its successors and assigns forever with all appurtenances thereunto belonging. And MERCHANTS AND PLANTERS BANK, Camden, Arkansas, hereby covenants with the said MAHONY CORPORATION that it will forever warrant and defend the title to said lands against all claims whatever.

IN TESTIMONY WHEREOF, The name of the Grantor is hereby affixed by its President and its seal affixed by its Secretary, this 14th day of May, 1986.

MERCHANTS AND PLANTERS BANK
 Camden, Arkansas

By Robert L. Jones
Robert L. Jones

I CERTIFY UNDER PENALTY OF FALSE
 SWEARING THAT AT LEAST THE LEGALLY
 CORRECT AMOUNT OF DOCKETARY STAMPS
 HAVE BEEN PLACED ON THIS INSTRUMENT.
 GRANTOR OR

MAHONY CORPORATION
106 WEST MAIN, SUITE 408
EL DORADO, ARKANSAS 71730-9688

Ms. Carol Nesbit
Clerk (Deputy in Charge)
United States District Court
Western Division of Arkansas
101 S. Jackson Ave., Suite 205
El Dorado, AR 71730

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